REMARKS/ARGUMENTS

1. Summary of the Office Action

Claims 8-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention

Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Hraster et al. (U.S. Patent No. 6,324,267) hereinafter "Hraster."

Claims 8-11, 15-19, 32 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Smyth et al. (U.S. 20020007492) hereinafter "Smyth."

Claims 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by LaJoie et al. (U.S. Patent No. 5,850,218) hereinafter "LaJoie."

Claims 12-14 are rejected under 35 U.S.C 103(a) as being unpatentable over Smyth in view of Bauminger et al. (U.S. Patent No. 6,681,393 B1) hereinafter "Bauminger."

Claims 29-31 are rejected under 35 U.S.C 103(a) as being unpatentable over LaJoie in view of Brodigan (U.S. Patent No. 6,530,086 B1) hereinafter "Brodigan."

2. Response to § 112 Rejections

Claim 8 has been amended to recite "said data transport packets." It is submitted that the rejection has been overcome.

3. Response to § 102 Rejections

a. Hraster fails to disclose or suggest a digital STB of claim 1

Hraster is directed at a cable data network that transfers data packets with IP addresses between Internet and hosts, where the hosts are *personal computers or work stations.* (Hraster, 4: 23-26.) Hraster fails to disclose or suggest a digital STB or any communication with a digital STB, as recited in claim 1, as amended. Therefore claim 1 and its dependent claims are patentable in view of Hraster

b. Smyth fails to disclose or suggest each and every element of claim 8

In order to show "establishing **a data session** over **a selected** media transport channel," as recited in claim 8, the Office action cites the following:

> The session control manager 200 communicates with its STBs 116 through a plurality of control channel modems (CCM) 118. A neighborhood is generally serviced by one or more CCM; however, broadly speaking a given CCM may service multiple neighborhoods and a plurality of neighborhoods may be serviced by a given CCM. The STBs 116 which are connected to a given CCM 118 must contend for the upstream channel that is available for propagating control signals from the STBs 116 to the CCM 118 and session control manager 200. Smyth, [0035].

As is evident from the passage above, Smyth discloses that STBs must contend for the upstream channel that is available for propagating control signals from the STBs to the control channel modems and session control manager. (Smyth, [0035].) It is submitted that STBs *contending for* the upstream channel is distinct from "**establishing a data session**," as recited in claim 8. Furthermore, the upstream channel in Smyth is the only available upstream channel, and therefore no selection is possible in the context of Smyth. Thus, Smyth fails to disclose or suggest "*a selected* media transport channel" or "establishing a data session," as recited in claim 8. Because Smyth fails to disclose or suggest each and every element of claim 8, claim 8 and its dependent claims are patentable in view of Smyth.

c. LaJoie fails to disclose or suggest each and every element of claim 27

Claim 27 recites a "**session manager providing routing instructions to said multimedia router, for directing media received from said media sources ... and for**

directing data received from said data router to at least a selected one of said network transmitter." In order to show the above features, the Office action cites the following:

> Digital services are received from satellite transmissions by digital satellite receivers 10. The signals received by digital satellite receivers 10 typically arrive in Quadrature Phase Shift Key (QPSK) modulated, encrypted MPEG-2 transport stream format. Once the satellite transmissions have been received by the digital satellite receivers, ***Broadcast Cable Gateway (BCG) 11 converts the transmissions signals for transmission over the cable system's communication network under the control of addressable controller 14***. Broadcast Cable Gateway 11 demodulates, applies Forward Error Correction (FEC), if desired, and decrypts the satellite transmission to recover an MPEG-2 transport stream. The MPEG-2 transport stream may then be manipulated by BCG 11 to remove unwanted programs from the stream to form an MPEG-2 payload. BCG 11 then encrypts the payload (if desired) and modulates it onto a Forward Application Transport (FAT) 6 MHz FDM channel. The modulation used on the FAT channels is preferably 64 or 256 Quadrature Amplitude Modulation (QAM), which enables the channels to carry digital data at rates typically in the range of 27 or 38 Mbps, respectively. By using MPEG-2 payloads, the present invention provides an increase in the number of programs and services that can be transmitted on a 6 MHz channel over that available with analog technology by digitally compressing and combining a plurality of programs and services into a single MPEG-2 payload.
>
> ***Application and media programs and services are provided by application and media servers 15 and 16 under the control of addressable controller 14 through*** digital switch or multiplexer 17, ***interactive cable gateway 18***, and data channel gateways 19 in distribution hubs 4. The programs and services provided by application and media servers 15 and 16 are preferably provided in MPEG-2 transport stream format. Addressable controller 14 may oversee the distribution of programs and services by servers 15 and 16 by processing requests for programs and services from the set-top terminals, instructing the servers when, how, and where to deliver a requested program or service, and directing the programs and services through the digital switch or multiplexer to the interactive cable gateway and data channel gateways in the distribution hubs.
> LaJoie, 11: 20-60 (emphasis added).

In particular, the Office action refers to *addressable controller 14* to show **the session manager** of claim 27, to *Broadcast Cable Gateway 11* to show **the data router** of claim 27, and to *interactive cable gateway 18* to show **the multimedia router** of claim 27. It is submitted that *BCG 11 converting the transmissions signals for transmission over the cable system's communication network under the control of addressable controller 14* is

distinct from a "**session manager providing routing instructions** to said multimedia router," as recited in claim 27. It is further submitted that *application and media programs and services being provided by application and media servers under the control of addressable controller 14 through interactive cable gateway 18* is distinct from a "**session manager providing routing instructions to said multimedia router ... for directing data received from said data router,**" as recited in claim 27.

Thus, because LaJoie fails to disclose or suggest each and every element of claim 27, claim 27 and its dependent claims are patentable in view of LaJoie.

d. Smyth fails to disclose or suggest each and every element of claim 32

Smyth discloses the channel re-allocation module that controls the allocation of channels to nodes in response to user requests via their respective STBs. Allocation decisions are predicated on *subscriber program requests* and subscriber resource usage. A subscriber *requesting a program* requiring a high information channel resource level (*e.g., a basketball game*) will be allocated an additional sub-rate channel or a super rate channel. A subscriber requesting a program requiring a low information channel resource level (*e.g., a black and white movie*) will be allocated fewer (or only one) sub-rate channels. (Smyth, [0052].) Specifically, Smyth discloses *program requests*. Smyth fails to disclose or suggest "receiving downstream **data session requests** to a selected broadband network destination," as recited in claim 32.

Because Smyth fails to disclose or suggest each and every element of claim 32, claim 32 and its dependent claim are patentable in view of Smyth.

4. <u>Response to § 103 Rejections</u>

Claims 12-14 depend on claim 8 and thus include the feature of "establishing **a data session** over **a selected** media transport channel," as recited in claim 8. Bauminger is directed at a viewer response method for use with an interactive telecommunications system. (Bauminger, Abstract.) Bauminger fails to disclose or suggest "establishing **a data session** over **a selected** media transport channel," whether considered separately or

in combination with Smyth. Therefore, claims 12-14 are patentable in view of the combination of Bauminger and Smyth.

Claims 29-31 depend on claim 27 and thus include the feature of "**session manager** providing routing instructions to said multimedia router, for directing media received from said media sources ... **and for directing data received from said data router** to at least a selected one of said network transmitter," as recited in claim 27. Brodigan is directed at an upstream signaling arrangement for a VDSL network. (Brodigan, Abstract.) Brodigan fails to disclose or suggest "establishing **a data session** over **a selected** media transport channel," whether considered separately or in combination with LaJoie. Therefore, claims 29-31 are patentable in view of the combination of Brodigan and LaJoie.

5. Conclusion

Having tendered the above remarks and amended the claims as indicated herein, Applicants respectfully submit that all rejections have been addressed and that the claims are now in a condition for allowance, which is earnestly solicited.

If there are any additional fees due in connection with this communication, please charge our deposit account no. 02-2666. If a telephone interview would in any way expedite the prosecution of the present application, the Examiner is invited to contact Elena Dreszer at (408) 947-8200 ext. 209.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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Elena B. Dreszer
Reg. No. 55,128

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1026
(408) 947-8200